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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/490,268    01/24/00    BOSTOCK

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PM82/0108

Joseph W Molasky & Associates  
4 S Limekiln Pike  
Chalfont PA 18914.

EXAMINER
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THISSELL, J

ART UNIT	PAPER NUMBER
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3635

DATE MAILED:

01/08/01

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

<b>Office Action Summary</b>	<b>Application No.</b> 09/490,268	<b>Applicant(s)</b> BOSTOCK, GLENN H.	
	<b>Examiner</b> Jennifer I Thissell	<b>Art Unit</b> 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 October 2000.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

**Attachment(s)**

- |                                                                                               |                                                                              |
|-----------------------------------------------------------------------------------------------|------------------------------------------------------------------------------|
| 15) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 18) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 16) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 17) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 20) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Double Patenting***

1. It should be noted that the Terminal Disclaimer filed October 30, 2000 is not considered proper and therefore has not been entered. However, since application # 09/235620 has been abandoned and is no longer co-pending with the instant application, applicant is not required to resubmit the Terminal Disclaimer because it is no longer necessary.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 17-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 17 and 18, as amended, are conflicting and fail to clarify the panel piece. It is unclear to the Examiner as to how there can exist a beveled recess that extends from the "front side" to the "rear side" of the panel, while at the same time there is a projecting flange of which the recess is defined by. It is not possible from the description to have a beveled recess that extends across entire panel from front to rear side if there is also a projecting flange portion.

***Claim Rejections - 35 USC § 102***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-3 and 8-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Dail ('640). Regarding claim 1, Dail discloses a panel piece 22 having front and rear sides, a pair of opposing side faces and opposing edge faces, one edge face being an elongate projection 26 with an end termination, the other edge face being an elongate recess including a bottom surface, the recess being of greater depth than the length of the projection. It can be seen in Figure 3 that when like panels are joined the projection end termination does not contact the recess bottom surface, leaving an open space therebetween.

Regarding claim 12, Dail discloses a panel piece 22 having front and rear sides, a pair of opposing edge faces, one edge face being a tongue 26 between a front edge flange and a rear edge flange, the other edge face being a groove including a rear leg, a front leg, and a base member, the rear leg being greater in length than the front leg. It can be seen in Figure 3 that if like panels would be joined, the rear edge flange of the first edge face rests upon the rear leg of the second edge face, leaving an open space therebetween.

Regarding claims 2, 3, 13, and 14, Dail discloses panel pieces that are joined to one another and are secured to a support structure 20, which is considered a studded frame.

Regarding claims 8, 9, and 11, the panel assembly inherently includes top and bottom panel pieces that have grooves, as all the disclosed panel pieces do, and are located at the uppermost and lowermost locations of the assembly, when in reference to the entire structure.

Regarding claim 10, Dail's indented shadow line can be seen in Figure 3 on the front face (bottom of picture) where the two panels meet.

***Claim Rejections - 35 USC § 103***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 4-7, 15, 16, and 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dail ('640). Dail discloses an assembly as stated above in section 3, except for the following features:

Regarding claims 4, 15, and 23, Dail does not state that the support structure is a wall of an elevator. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use Dail's paneling assembly in an upright position an elevator wall, since basic panel pieces with tongue and groove interconnections are commonly used with floors, walls, and ceilings. Also, to be used in an elevator would be an obvious use of a panel system, since the assembly could be attached to any type of room or wall with a basic support structure.

Regarding claims 5-7, 16, and 24, Dail teaches a panel assembly that is nailed or otherwise fastened to the support members (column 2, lines 15-16). It does not specifically state that screw or adhesive means are used, however, these are alternative fastening means that are common and well known in the art of building construction. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a screw or adhesive to fasten the panels to the support member, since screws would provide more of a secure hold between structural elements and an adhesive would invisibly secure the elements.

Regarding claims 22-25, since all of the structural elements are disclosed and discussed in the sections above, the steps of securing panels to a support structure, interlockingly engaging the panel pieces, and forming a line in the form of a space which is disclosed, are considered the obvious method of creating a panel assembly.

***Allowable Subject Matter***

5. Claims 17-21 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.
6. The following is a statement of reasons for the indication of allowable subject matter: Regarding claims 17 and 18, prior art fails to disclose panel pieces disposed atop one another, each piece having a beveled recess which

extends from the front side of the panel piece, and a projecting second flange that has a length that is greater than that of the first flange so that when pieces are joined it results in an elongated space between them.

### ***Response to Arguments***

7. Applicant's arguments filed October 30, 2000 have been fully considered but they are not persuasive.

In response to applicant's argument that Dail has a v-shaped reinforcing strip disposed within the space between the joined pieces, and therefore does not have an "open space" between mated panels, the Examiner takes the position that the phrase "open space" is more broad in scope, and that there is in fact an open space between the panels when joined. Even though there is a reinforcement strip in between taking up some of the open space, there is still an open space between the panels.

Regarding applicant's argument that Dail's invention allows the cantilever force to continue and exist unlike the instant invention, it should be noted that the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art.

**Conclusion**

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer I Thissell whose telephone number is (703) 306-5750.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.




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CHRISTOPHER T. KENT  
PRIMARY EXAMINER

 January 3, 2001